



Los Angeles County PROBATION REFORM AND IMPLEMENTATION TEAM

Recommendations to Ensure Humane Treatment and Safety of Youth and Staff and for the Phased Elimination of Oleoresin Capsicum ('Pepper Spray') in LA County Juvenile Facilities

Submitted to the Los Angeles County Board of Supervisors
and to Terri McDonald, Chief Probation Officer – Los Angeles County

By:

Alexander Sanchez, 1st District Appointee
Cyn Yamashiro, 2nd District Appointee
Dr. Sheila Balkan, 3rd District Appointee
José Osuna, 4th District Appointee
Mack Jenkins, 5th District Appointee

Saúl Sarabia, PRIT Chairperson

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EXECUTIVE SUMMARY

The LA County Board of Supervisors unanimously adopted two motions in February 2019 requesting that the Probation Reform and Implementation Team ('PRIT') convene a Special Hearing to solicit public input and subject matter expertise on safety in the LA County juvenile justice facilities. The PRIT convened a range of stakeholders, from Probation officers, youth and adults with experiences in detention who are now leaders in civic engagement, individual taxpayers and residents, and national experts to gain collective insight on ensuring humane treatment in LA County probation camps and halls. The purpose of the hearing was to solicit stakeholder input and generate recommendations to inform the Probation Department's plan to reduce the use of force, ensure humane treatment of youth, and safely eliminate the use of pepper spray in LA County's juvenile facilities.

Part One of this report features recommendations to meet the ongoing needs to achieve the Board's goal of rehabilitation of youth, by centering trauma-informed practices, and meeting the mental health needs in LA's juvenile justice facilities. Part Two contains recommendations to implement the Board's unanimous decision to eliminate pepper spray from LA County juvenile justice facilities. The recommendations in this report reflect community wisdom, including the voices of those who work in and have been detained in LA's juvenile justice facilities, as well as research-based expertise provided by experts in the field, ranging from professionals in County agencies and independent non-profit organizations.

Constituted by the Board in May 2018, the PRIT is comprised of five Supervisorial appointees serving as voting members with diverse but extensive expertise in the areas of rehabilitation, community corrections, juvenile justice, and criminal justice reform. They are joined by three ex-officio representatives of the Probation Department, County Counsel, Chief Executive Office and by a Consultant Chairperson. The PRIT is tasked to design the nation's first civilian oversight body over a Probation Department and has held more than 10 public meetings since August 2018 to solicit community input on the Board's historic effort to produce systemic reform of the nation's largest Probation Department. The PRIT is also synthesizing hundreds of recommendations into an integrated and comprehensive reform plan, which will allow the new Probation Oversight Commission ('POC') to support and advise the Department and the Board, and to monitor progress on the Board's systemic reform effort.

The voices that shaped the recommendations from the PRIT contained in this report reflect the diversity of LA County's stakeholders and the expertise of the PRIT's Supervisorial appointees, who benefitted from the input of the PRIT departmental ex-officio members of the body. While the PRIT's final recommendations to the Board of Supervisors regarding the proposed design of the POC and systemic reform plan are forthcoming, the PRIT is pleased to submit the following recommendations from the Special Hearing on 'Safety and Humane Treatment and the Phased Elimination of Pepper Spray in LA County Juvenile Justice Facilities.'

**PART ONE: RECOMMENDATIONS TO ENSURE SAFETY
AND HUMANE TREATMENT IN LA COUNTY JUVENILE JUSTICE FACILITIES**

Culture Change

Recommendation 1: Develop a concrete strategy to end the adversarial “us vs. them” culture that the Inspector General’s report documented among certain Probation staff.

Recommendation 2: Develop a mission, vision and philosophy for juvenile facilities that support positive youth development and therapeutic, rehabilitative principles and practices; use gender and culturally-responsive strategies to address trauma and abuse, unhealthy relationships, parental issues, mental health, and addiction.

Recommendation 3: Support Probation staff-development approaches focused on culture change and increase avenues for staff to be heard.

Recommendation 4: Ensure that Probation’s efforts surrounding de-escalation strategies consistently include the expertise and consultation of individuals who have been detained in the Probation system.

Mental Health Support

Recommendation 5: Ensure that Probation’s juvenile justice facilities are environments where youth can flourish, where mental health needs are identified and assessed regularly to be met with corresponding tools, and where family connection and input are central to the rehabilitation of youth.

Recommendation 6: Address the working conditions, well-being, and the learning needs regarding wellness of Probation staff working in juvenile justice facilities.

Programming

Recommendation 7: Replace the idle time widely and commonly experienced by youth in the juvenile facilities with daily therapeutic activities that heal and develop youth.

Recommendation 8: Immediately act on the RDA recommendation that “LA Probation should implement incentive-based behavior management systems for youth and reward facility managers and unit supervisors who can reduce critical incidents and increase school attendance.”

Robust Oversight and Data Collection

Recommendation 9: The Probation Department and the new Probation Oversight Commission should regularly collect, analyze, and publicly share data on youth facility safety.

Recommendation 10: The Probation Oversight Commission should administer the Grievance process and Youth Councils in Halls and Camps.

PART TWO: RECOMMENDATIONS FOR A SAFE AND EFFECTIVE PHASED-ELIMINATION OF OC SPRAY IN LA COUNTY

Recommendation 11: Review past periods in LA County’s juvenile justice facilities when pepper spray was not in use and identify how de-escalation functioned without it.

Recommendation 12: Work with a National Consultant Expert on Phasing Out Pepper Spray to achieve phasing out pepper spray in LA County in a safe manner within 1 year.

Recommendation 13: Focus on Training all Staff working with Youth in the Camps and Halls.

Recommendation 14: Make Necessary Policy Changes to Support the Elimination of Pepper Spray and Ensure Safety.

Recommendation 15: Participate in Data Collection that Prioritizes and Ensures Safety During the Phase Out of Pepper Spray.

The Special Hearing on “Safety and the Phased Elimination of Pepper Spray (‘Oleoresin Capsicum’) in LA County Juvenile Facilities” was successful in gathering community input on performance metrics, reform programming and policy recommendations. The range of panelists, respondents, and participants in public comment informed the discussion in a way that moved the process of reform forward and assisted in crafting the recommendations contained within this report. The PRIT acknowledges the input of all interested stakeholders and the confidence of the Board of Supervisors in charging us to convene this Hearing and forward recommendations on these important topics.

Los Angeles County Probation Reform and Implementation Team

Recommendations to Ensure Humane Treatment and Safety of Youth and Staff and for the Phased Elimination of Oleoresin Capsicum ('Pepper Spray') in LA County Juvenile Facilities

Background

In December 2018, the LA County Board of Supervisors (the Board) directed the County Inspector General (OIG), in collaboration with the Probation Department and County Counsel, to investigate youth and staff safety concerns in the halls and camps with a focus on the use of pepper spray. This resulted in two reports, *"Report Back on Ensuring Safety and Humane Treatment in the County's Juvenile Justice Facilities,"* on February 4, 2019, and *"Report Back on the OIG Investigation and Improving Safety in the Juvenile Facilities,"* on March 8, 2019.ⁱ

On February 5, 2019, the Board approved a motion directing the PRIT to convene a Special Hearing on safety and humane treatment in County juvenile facilities. On February 12, 2019, the Board also directed the Probation Department to utilize findings from this PRIT Special Hearing to report back in 60 days on a plan for a phased elimination of OC spray to be implemented by the end of calendar year 2019. The Special Hearing was held on Saturday, March 16, 2019.ⁱⁱ

The Special Hearing called for by these two Board motions was intended to create a forum for community input and expert testimony to address a range of potential areas related to the use of force, including staffing, training, accountability, mental health resources, culture, policies, and data collection/dissemination. The Board also expects the PRIT to use this input to generate recommendations to eliminate the use of OC spray safely by December 31, 2019. Specifically, the Board expects the PRIT to identify data and metrics that ensure staff and youth safety during and after its elimination, methods for the Probation Department to regularly and consistently share data with the public on use of force, and ideas for identifying and meeting the mental health needs in juvenile facilities and centering trauma-informed approaches in juvenile facilities.

The following recommendations come from years of nationally validated research, public input from probation officers and residents at the Special Hearing, including testimony from individuals with lived experience in detention, and specialized technical assistant experts supporting the PRIT. This document is organized into two parts. Part One centers on recommendations to address the **ongoing needs** to achieve the Board's vision of a juvenile justice system that is humane, safe, and engaged in rehabilitation. Part Two focuses on recommendations to achieve a safe **phased elimination of pepper spray** in Los Angeles County juvenile justice facilities. These two dimensions are deeply inter-related, but each merits a precise consideration, in order to fulfill the Board's vision for reform.

PART ONE: RECOMMENDATIONS TO ENSURE SAFETY AND HUMANE TREATMENT IN LA COUNTY JUVENILE JUSTICE FACILITIES

Culture Change

Recommendation 1: Develop a concrete strategy to end the adversarial “us vs. them” culture that the Inspector General’s report documented among certain Probation staff.

At the Special Hearing, statements by individuals with experience in the justice system uniformly described how frequently traumas are re-triggered and re-awakened as a result of forceful tactics and the normalized policing style that is implemented in the probation camps and halls.ⁱⁱⁱ This approach creates an environment that was described by attendees as a “training camp for prison” and “training for the outlook of an incarcerated life.” In short, institutionalization begins early in these settings, with life-long implications for those who are detained there, as well as those who serve as corrections officers. At the Special Hearing, the PRIT Chair also asked the OIG to elaborate on its findings in a section entitled ‘Culture’ in its Feb 4th report to the Board. The OIG reiterated that:

*“youth and staff consistently spoke in one voice on a particular topic: the importance of relationships, interpersonal communication, and mutual respect in improving safety and preventing force. While some inappropriate conduct identified might be prevented through effective policy revision and training, the most problematic incidents detailed...are symptoms of larger systemic cultural issues that **require immediate and extensive analysis and reform.**” (Emphasis added)*

Culture change starts at the top and must be demonstrated in all aspects of the Probation Department.^{iv} During the Special Hearing, similar dynamics reflecting an ‘us vs. them’ mentality,^v led to concrete suggestions from community members, particularly that the Department leadership and representative of probation unions work with gang intervention experts, youth, and people from the communities served by the Department, to develop a strategy to address it. Moreover, Union leaders accepted the PRIT Chair’s invitation to increase public confidence in their desire to address these issues by publicly restating their commitment to racial justice and humanization of the youth population in juvenile facilities. The PRIT believes **that creating an affirmative strategy built on collaboration** among the change agents inside and external to the department, is essential to achieve this reform.

Recommendation 2: Develop a mission, vision and philosophy for juvenile facilities that support positive youth development and therapeutic, rehabilitative principles and practices; use gender and culturally-responsive strategies to address trauma and abuse, unhealthy relationships, parental issues, mental health, and addiction.

As part of a culture change initiative in youth facilities, we recommend enhancing opportunities for further engagement of both care/custody and program staff in better understanding of the youth population’s needs, especially the female youth, and designing strategies to enhance gender and culturally responsive policy and practices. We recommend more interventions designed to address trauma and abuse, unhealthy relationships, parental issues, mental health, addiction and other human needs with strategies that are proven to be more impactful and effective than gender-neutral approaches. We recommend a strategic approach to increasing the alignment of policy, procedure, practice and culture with the state-of-the-art in gender and culturally responsive practices.

Recommendation 3: Support Probation staff-development approaches focused on culture change and increase avenues for staff to be heard.

Probation staff working with youth in and outside of the facilities must be knowledgeable and trained in positive youth development, adolescent brain development, trauma-informed care, bias, and restorative practices. Staff cannot practice nor model that in which they are not currently trained; nor which is unaddressed in their own personal experience. Department of Mental Health (DMH) staff, including its Director, participated in the Special Hearing and mental health staff at the camps/halls engaged PRIT afterwards, all of which was invaluable in gaining deeper insights into such approaches. For example, DMH staff shared:

“At Camp Scott, for the past 8 years, Probation, DMH, LACOE and Health Services staff have been convening a daily focus group for staff (M-F). This group serves several functions, such as support, self-care, debriefing after major incidents, training, treatment planning, relationship building and repairing relationships between agencies, where necessary. The activities involve skill building, coaching, giving voice to staff, providing validation and empowerment to staff, teaching dialectical behavioral therapy, skill of the week, and discussing symptoms of vicarious trauma and compassion fatigue. The group is tailored to the needs of the staff, youth and/or camp on any given day, depending on the tone, with the goal of culture-shifting. The focus group is now being offered at Campus Kilpatrick daily (M-F).”^{vi}

The PRIT recommends that staff participation in this type of program be prioritized, that any barriers to participation be identified, and that obstacles impeding participation be tracked, then removed.

Probation staff at the March 16th Special Hearing also spoke to or later submitted their own views on the ongoing safety needs of the youth under their care and themselves. Some recommendations from labor representatives, as well as individual Probation staff, included:

- *“Staff must actively engage youth so as to identify conflicts before they escalate.”*
- *“Staff need training up front and on a regular basis [and] must learn behavior management techniques, conflict management skills, and how to de-escalate confrontations.”*
- *“Have doctoral candidates in psychology work to develop a curriculum for our employees to be certified in applied behavioral analysis or clinical forensic psychology.”*
- *“Have doctoral candidates in psychology teach staff how to handle youth manifesting symptoms of mental health, developmental disabilities, and identifying the differences between psychiatric disorder and conduct disorder.”^{vii}*
- *“When given overtime, account for staff being tired and perhaps not performing at the same level as in their first shift [when they have been held over to work a second shift]”*
- *“Consider having assaults on staff investigated by a third party outside of the Probation Department.”*

The Probation Department should regularly and consistently create opportunities to listen to staff concerns and support changes to ensure they are safe, healthy and supported. Examples cited by veterans of the Department include an open-door policy for staff access to the highest-level administrators that encourages and rewards direct input and a formal schedule of town hall style listening sessions at the local level that are attended by the Chief Probation Officer and the Executive Leadership.

Recommendation 4: Ensure that Probation’s efforts surrounding de-escalation strategies consistently include the expertise and consultation of individuals who have been detained in the Probation system.

Testimony at the Special Hearing, specifically from system-involved youth, formerly gang involved people, youth advocates, and public defenders, all reiterated remarkably similar recommendations regarding the problem of de-escalating dangerous situations. All recommended that there be a shift towards implementing more trauma-informed approaches to de-escalate conflict and maintain safety within Los Angeles County Probation Halls and Camps. *All uniformly agreed that reform cannot occur without the ongoing input of youth and families who have been clients of the probation system.*

Many who spoke at the March 16th meeting repeated the idea that “those that have been incarcerated have never been called upon to look for solutions.” These individuals all reiterated ideas that appeared in the RDA^{viii} list of recommendations: the need to reform probation into a non-punitive system begins with training new staff including incorporating those with lived experiences, intervention workers, MSWs, and people trained in peace building. Experts with these backgrounds can speak the language youth relate to and empathize with youth in an empowering manner and can help enhance Probation’s capacity to do the same. Future efforts focused on de-escalation must be **based on relationship-building** not punitive power dynamics.

Mental Health Support

Similar to jurisdictions across the country, as the number of young people held in custody in LA County declines, a greater percentage of the remaining youth have mental health challenges. At the Special Hearing, the Department reported that 92% of youth in LA County juvenile facilities have open mental health cases.^{ix} Conditions inside juvenile facilities and the reported high number of major incidents and use of OC spray can exacerbate the mental health conditions of the youth. These youth need immediate appropriate levels of mental health treatment; trauma-informed care; and positive, supportive intervention. The officials from the LA County Department of Mental Health who participated at the Special Hearing emphasized, ***‘Individuals need purpose and belonging.’***

Recommendation 5: Ensure that Probation’s juvenile justice facilities are environments where youth can flourish, where mental health needs are identified and assessed regularly to be met with corresponding tools, and where family connection and input are central to the rehabilitation of youth.

Both community wisdom at the March 16th hearing and subject matter expert input identified specific methods to transform the environment at juvenile justice facilities by centering family connection and mental health assessment and enhancement. This includes enriching camps by providing daily purposeful activities (*see programming recommendations below*) and ensuring that the family of the youth have been included in creating purpose for minors. Family visitation should be increased so that youth may have

more opportunities to interact with their families. The definition of family should be redefined to include caring adults that are in a young person's life that they identify as support and they should be allowed to visit with the youth to be a positive adult role model.

Both Probation staff and community residents resolutely indicated that the juvenile facilities are currently ill-equipped to address the mental health needs of many of the youth in the facilities. By collaborating with DMH, the Probation Department should share mental health issues/assessment results of minors in the custody and care of probation officers/staff to create a more holistic approach to care. The PRIT endorses the expansion of the use of multi-disciplinary teams (MDTs) between Probation Department, DMH, and other stakeholders. These teams should determine what mental health tools are needed and ensure that tools are appropriate and modified on an on-going basis as the profile of youth in custody change.

Recommendation 6: Address the working conditions, well-being, and the learning needs regarding wellness of Probation staff working in juvenile justice facilities.

Staff who have care and custody responsibility for youth in detention and camps experience high levels of direct and vicarious trauma. In addition to the health care plans provided by the County that allow staff access to mental health services, supplemental care should also be provided, including staff support groups and on-site wellness groups. Probation staff who work with youth in facilities should also receive ongoing training on the effects of trauma and how adverse childhood experiences have affected the youth now under their care. One of the most significant displays of understanding and empathy at the March 16th Special Hearing involved the repeated calls by formerly incarcerated people for the County to recognize and attend to the wellness and vicarious trauma of staff, not just youth, in the facilities. Recently, a wellness and needs assessment group has been launched by DMH staff at Barry J. Nidhorf Juvenile Hall, with a plan to offer these on a bi-weekly basis. The function of the group is to provide support to staff and education about vicarious trauma, burnout, and compassion fatigue, which the PRIT strongly endorses. The goal is to shift culture, empower staff, increase morale, and job satisfaction.^x

Some examples of public input at the hearing regarding the need to attend to the mental health needs of the staff, include:

- *"Staff working in the institutions need to be provided employee support services, including therapy"*
- *"Build in "mental health" breaks for staff during their shifts"*
- *"Leverage community-based organizations with specialties in mental health and gang intervention to help the Department increase its capacity to address youth trauma, approach them differently and more effectively, and reduce vicarious trauma"*
- *"Use intervention workers alongside Probation Officers to help them see youth beyond a single action and from a trauma lens"*

Programming

Many of the attendees at the Special Hearing concurred with the PRIT appointees who had recently visited Probation facilities: ***there is too much idle time in juvenile facilities and this idle time can be a significant factor leading to disciplinary issues.*** This is one of the most important steps for the long-term improvement of safety in juvenile justice facilities and in the replacement of OC spray.

Recommendation 7: Replace the idle time widely and commonly experienced by youth in the juvenile facilities with daily therapeutic activities that heal and develop youth.

Among the ideas for improving the programming in the juvenile facilities that were provided to the PRIT by public comment cards or testimony at the Special Hearing are:

- *“Hire counselors, interventionists, artists, individuals that have been in the system and focus on diversion and transformative justice.”*
- *“Teach staff and youth self-care skills, such as meditation, yoga, and art therapy.”*
- *“Bring in programming that is engaging, developmentally appropriate, and educational.”*
- *“Better use of and coordination among partners, including...LACOE, community colleges, Unions, community organizations, and Probation Department to run facilities.”*
- *“Explore how to make the environment safe, secure, but also nurturing.”*
- *“Choose words with intention.”*

The PRIT recommends that the programming provided be research-supported as being effective in contributing to positive behavior change. Some examples of such programming include:

- Cognitive behavioral curricula (to address criminal or delinquent thoughts)
- Family based therapies, such as Dialectical Behavior Therapy
- Substance abuse treatment programs
- Specific anti-gang curricula

Recommendation 8: Immediately act on the RDA recommendation that “LA Probation should implement incentive-based behavior management systems for youth and reward facility managers and unit supervisors who can reduce critical incidents and increase school attendance.”

In addition to the overwhelming support from the public to replace idle time with therapeutic activities, national best practices endorsed by the PRIT include that Probation implement, with all deliberate speed, the existing recommendation in the RDA report adopted by the Board in the May 1, 2018 motion creating the PRIT, to increase incentive-based behavior management. This would entail:

- Implementation (or significant expansion) of a positive reinforcement/rewards based behavioral management system - a system that provides regular (daily or at least 3 times weekly) rewards for good behavior and includes rewards that youth want/enjoy.
- Use positive reinforcement/rewards-based programs, like “Token Economy”, which have proven to be very effective in maintaining safety.
- Increase the availability of Positive Youth Development programming and ensure programs are offered in the evenings and on weekends.

Robust Oversight and Data Collection

In addition to its adoption of the RDA recommendations in the May 1st motion and charging the PRIT to consolidate them into an “integrated, comprehensive reform plan” the Board has authorized the PRIT to recommend the design for a new Probation Oversight Commission (POC). The POC will use the reform plan to ensure the Board’s systemic reform of the Probation Department is on track. This Commission, once erected by the Board, can also play an important role in ensuring humane treatment in the halls and camps. The recommendations below contemplate important best practices to ensure accountability and transparency that are relevant to the Board’s February motions.

Recommendation 9: The Probation Department and the new Probation Oversight Commission should regularly collect, analyze, and publicly share data on youth facility safety.

At least quarterly, a public data-driven performance management meeting should be held to present data on at least the following items:^{xi}

- Average population per facility that quarter
- Number of major incidents per month, by facility, by unit:
 - Youth on youth fights/assaults
 - Youth on staff assaults
 - Use of Force
 - Injuries (that cause medical attention)
- Time youth spend in school (hours per day)
- Time youth spend in structured programs run by Probation or other County agency per day
- Time youth spend in structured programs run by outside service providers per day
- Time youth spend in their rooms during waking hours
 - Waiting for meals
 - Shift change
 - Discipline, including the use of the HOPE Centers
 - No programming being offered
 - Weather restriction on recreation

Recommendation 10: The Probation Oversight Commission should administer the Grievance process and Youth Councils in Halls and Camps.

Consistent with best practice recommendations, a body that is independent of the Probation Department should have responsibility for the grievance system in youth facilities.^{xii} In addition, youth councils are a recommended best practice, as a means to increase transparency and deter violations of policies, such as use of force. LA County has committed to implementing youth councils as part of an existing corrective action plan arising out of a use of force case in its juvenile facilities. Given the resource constraints facing the Probation Department and testimony repeated at several PRIT meetings by existing Probation Commissioners and the general public regarding gaps in the Ombudsman process, the PRIT strongly recommends that these functions form part of the POC's infrastructure. These steps include:

- Developing a youth council in each facility under the “robust community engagement” mandate for the POC articulated by the Board in its May 1, 2018 motion to establish an oversight commission. The Youth Councils should meet monthly, with an agenda and action items to improve relationships, communication and the facility environment.
- Management of each facility should attend monthly youth council meetings to hear from and positively respond to youth issues and concerns.
- Developing an independent grievance process under the auspices of the POC, employing best practices under the oversight function, to build trust with youth and staff, to independently respond to youth and staff concerns, and to expedite compliance with related laws and agreements.^{xiii}

PART TWO: RECOMMENDATIONS FOR A SAFE AND EFFECTIVE PHASED-ELIMINATION OF OC SPRAY IN LA COUNTY

Historical Antecedents

The Los Angeles County Probation Department has a long and difficult history with the use of oleoresin capsicum (OC spray) in juvenile facilities. In 2003, the U.S. Department of Justice (DOJ) determined that the use of OC spray by Los Angeles County Probation Department likely violated the U.S. Constitution^{xiv} with the DOJ threatening to bring a lawsuit against the County of Los Angeles for these violations.^{xv} Following this, the LA County Probation Department entered in to a memorandum of agreement to establish new policies to reduce the use of OC spray in their juvenile camps and halls. However, in 2016, the Auditor-Controller noted that Probation Department was not maintaining substantial compliance with the agreement concerning measuring OC canister weight.^{xvi} On April 4, 2019, six Los Angeles County Probation Officers were criminally charged as a result of an investigation into the use of pepper-spray on youth at Los Padrinos Juvenile Hall.^{xvii} Currently, California is one of only 15 states that permit the use of pepper spray in juvenile facilities and only 1 of 5 states that allow it to be carried by probation officers in juvenile facilities.

Recommendation 11: Review past periods in LA County's juvenile justice facilities when pepper spray was not in use and identify how de-escalation functioned without it.

It is critical to acknowledge that there was a time period when Probation did *not* use pepper spray as a de-escalation tactic in the halls. At the March 16th Special Hearing, PRIT member and gang intervention expert Alex Sanchez drew upon his own lived experience while detained in Los Angeles County Probation Halls during the 1980s. In that time, there was no use of pepper spray during the periods he was detained. This is particularly noteworthy given that this occurred during a period characterized by high crime rates, the devastation of the crack epidemic and record rates of gang violence. In Los Angeles County there was upwards of 1000 homicides a year, the majority of those gang related. Nevertheless, pepper spray was not used in Probation facilities. Jennifer Brown from the Public Defender's office further reiterated the report that the probation system formerly functioned and was able to de-escalate conflict without the use of pepper spray. It is unclear what was used to de-escalate conflict or if it was equal to pepper spray in engendering trauma, but it would be important to review this history.

Phased Elimination Recommended Steps and Phases

Changing Use of Force policies and practices and eliminating OC spray is greater than just developing a "Use of Force Reduction, Restriction, and Elimination plan." Everything within and about the facilities, methods of recruitment, retention and training, supervision, philosophy and leadership must be in-line to successfully manage the reduction, restriction and eventual elimination of OC spray.^{xviii}

The recommendations in this section strive to balance the urgency of the Board and the community to ensure OC spray is not being used in LA County by the end of this calendar year, and the need to phase out OC spray incrementally.^{xix} However, they seek to adhere to the Board's directive that we marshal the leadership support, data collection and analysis, new and veteran staff training, programming improvements, policy and practice changes, and communication plans, to achieve the goal as soon as possible.

While implementing these recommendations, all leadership throughout Probation, from administration to facilities need to display strong and unwavering confidence in reducing, restricting and eliminating the use of OC spray in a safe and timely manner. The Department should never place blame on anyone for the changes taking place, but embrace the changes with the belief they can be implemented successfully; that they are the correct way to work with youth, and that the changes will make the facilities safer. All levels of staff and importantly line staff, need to hear and feel that Probation leadership believes in the designed plan and strategy and is confident that it will result in a safer environment for both staff and youth.

Although the recommendations are not an exhaustive list or a full “Use of Force Reduction, Restriction and Elimination plan,” the PRIT is identifying steps to be taken immediately to begin reducing OC spray in the juvenile facilities and moving to the elimination of OC spray in a multi-phase approach. Prior to completing the elimination of OC spray, there must be multiple steps planned (and implemented) leading up to the safe and structured total elimination. For example, prior to elimination, there must be trainings implemented to equip direct care staff, including non-violent crisis intervention, cultural competency, youth trauma, and staff stress reduction practices.

It is imperative to recognize that research from the PRIT’s technical assistant experts, including those who participated at the Special Hearing, indicated that banning pepper spray use without first providing custody/care staff more skills training and alternative tools ***could lead to safety/security risks to both staff and youth***. For this reason, the PRIT recommendations reflect the unique size and complexity of LA County’s Probation Department and align with national best practices on discontinuance of pepper spray usage. The PRIT presumes that the Department has begun acting on the Board’s motions to phase out pepper spray (‘PHASING OUT THE USE OF OLEORESIN CAPSICUM (OC) SPRAY IN COUNTY JUVENILE FACILITIES’) and to ensure safety while reducing use of force (‘THE OIG INVESTIGATION AND SAFETY IN JUVENILE FACILITIES’), both of which were approved unanimously in February 2019. The first steps recommended in Phase One below do not need to wait until the Probation Department is in receipt of this plan or submission of its own plan to the Board. For example, the Department can survey youth and staff about their concerns regarding the elimination of pepper spray immediately. Similarly, developing a scope of work now to engage a national expert with experience phasing out pepper spray in juvenile facilities would represent a good faith effort to implement the Board’s unanimous directives on time.

PHASE I - (Months 1 to 3)

Recommendation 12: Work with a National Consultant Expert on Phasing Out Pepper Spray to achieve phasing out pepper spray in LA County in a safe manner within 1 year.

- Authorize the Probation Department to use its existing contractual relationship with a nationally recognized consultant/team that has extensive experience in supporting states and counties in the phasing out the use of OC Spray, increasing de-escalation, and positive youth development strategies, to define a scope of work to achieve the goals herein.
- Conduct a baseline assessment of existing program and equipment resources and needs for a safe phase out of pepper spray.
- Work with Department of Human Resources (DHR) to fully assess Probation’s staffing needs regarding Worker’s Compensation, Work Hardening backfill, and call outs, with the goal of moving from “paper ratios” to actual practice.

- Assess Supervisor Ratios and managerial staff.
- Conduct a training needs assessment.
- Conduct a survey of staff and youth to get feedback on their needs, concerns, and opinions about the removal of pepper spray.

Phase II - (Months 3 to 9)

Recommendation 13: Focus on Training all Staff working with Youth in the Camps and Halls.

OC spray cannot be reduced or eliminated without appropriate, timely and ongoing training for all staff who work in the facilities. Staff must first be given other skills and tools to use, including enhanced training in non-use of force options. Appropriate and realistic time must be allotted to properly train all staff in the facilities as well as training all staff that work with youth. Training must include all staff who works in the facility including probation line-staff and supervisors, medical and mental health staff, educators, and community providers who work in the facilities. It is paramount that staff are trained at all levels of Probation before elimination of OC spray is attempted.

Staff training must include:

- Adolescent brain development
- Trauma informed care
- Restorative practices
- Positive youth development
- Trauma informed de-escalation methods
- Implicit bias and Structural Racism
- Mental health needs of youth and management of youth with mental health diagnoses
- Safe physical interventions
- Cultural awareness and competency
- Gender responsiveness
- De-escalation and preventive practices, such as voice control and separation options, in place of reactionary practices involving OC spray and ensure that all de-escalation tactics are trauma informed.

Staff input on training related to phase out of OC spray, included:

- *“Staff need more than 8 hours of training and more frequent refresher trainings on all topics, and ongoing coaching methods that reaffirm the core principles and methods in the trainings.”*
- *“The current use of force policy to complete a written report immediately following an incident is ill-timed, as staff are not often in the proper state of mind to create the report.”*
- *“Employees should be able to view the video and make amendments to the use of force reports after viewing.”*

Recommendation 14: Make Necessary Policy Changes to Support the Elimination of Pepper Spray and Ensure Safety.

Phasing out OC spray must be done **incrementally and methodically** to ensure it is effective, safe and lasting, starting with reducing how many staff are authorized to carry OC spray, moving to where only supervisors are authorized to carry OC spray, to eventually OC spray is locked in a secure area and eliminated. This can only be done if policies mirror national best practices that are supportive, clear, up-to-date and concise.

Initial Steps:

- Immediately update the Use of Force and Restraint policies to reflect that OC spray shall only be used as a last resort and only when a true and justifiable threat of physical harm exists.
- Ensure that policies do not allow staff to take OC spray home at the end of shift and that the policy is consistently enforced.
- Ensure that policies do not allow staff to bring in their own OC spray and that policy is effectively enforced.
- Ensure that policies state that OC spray is issued at the start of each shift and weighed upon issue and upon end of shift and after each OC spray use incident.
- Ensure that policies state OC spray is not to be used for room extractions or for intimidation purposes.

Secondary Steps:

- Ensure policies to ensure that line-staff are not allowed to carry OC spray.
- Ensure policies so that only supervisors are authorized to carry and use OC spray.
- Ensure policies that supervisors are only authorized to dispense OC spray under these limited circumstances:
 - When an actual physical altercation has begun between two or more youth who cannot be controlled, and repeated clear verbal warnings have been ignored.
 - When a youth is physically assaulting a staff and the situation cannot be controlled with a physical intervention.
- Ensure that policies state that OC spray is prohibited from being used as a prevention method and is only used as a last resort intervention method for the two above circumstances.
- Ensure that policies state that any use of OC Spray outside of the above circumstances will result in certain disciplinary action up to and including termination.
- Eliminate pepper spray from Probation camps.^{xx}

Phase III - (Months 9 to 12)

- Place OC Spray in a “Lock box” in the facilities authorized to use pepper spray under limited circumstances.

Final Step - (Month 12)

- Eliminate all use of OC spray and remove from all facilities.

Ongoing during the interim use/phase out period: (Months 1 – 12)

- Ensure a consistent and thorough review and monitoring process is in place to review all use of OC spray and other restraint incidents.
- Establish a review board to carry out this process.
- The review process can be used as a teaching moment, by having staff verbally explain their actions to the review board, allow them to watch any video of the incident and their response actions as many times to help them recognize how they could have dealt with the situation differently.

Recommendation 15: Participate in Data Collection that Prioritizes and Ensures Safety During the Phase Out of Pepper Spray.

For more than ten years, throughout numerous reports and studies on the LA County Probation Department concerning use of force, safety, best practices and facility oversight, recommendations have been made repeatedly that there must be a priority to invest resources and time in developing an updated data/IT system that can adequately collect, store and analyze data in real time. This has also been incorporated in the Department's Accountability Plan, which has spoken clearly and consistently on this need. This must be done as soon as possible to be able to simplify the process of data collection and extraction, collect and access reliable and accurate data, develop and understand trends, track outcomes and conduct investigations. Although the County CIO office established a Probation IT Strike Team to address infrastructure and support services, there may be a need to begin collecting data in the interim, before these systems are in place.

- Each facility must consistently and accurately track data and outcome measures related to the use of force/restraint, assaults, fights, youth and staff injuries, etc.
- Leadership must regularly monitor all data and outcome measures to understand trend data, areas of improvement and areas of concern.
- Data should be used as a teaching tool and shared as a tool to measure success.
- As use of force incidents diminish, data should be shared with all staff, so they can understand the changes are resulting in a safer environment.
- During the phase out of OC spray when it is used, data collection must include data on all health-related issues as a result of using the spray. Also, data needs to capture if compliance with decontamination procedures were followed and quarterly reporting on the following:
 - Average population per facility that quarter
 - Number of major incidents per month, by facility, by unit:
 - Youth on youth fights/assaults
 - Youth on staff assaults
 - Use of Force
 - Injuries (that cause medical attention)
 - Number of OC spray uses by facility, by unit (and if above phase out plan implemented, by manager)
- The Probation Department may want to consider joining Performance-based Standards (PbS), a national alliance of juvenile facilities that track all the same data, including major incidents and compare progress amongst jurisdictions. (PbS could be a very good national system and may still be right for LA Probation, but it is a very cumbersome system to implement).^{xxi}

Conclusion

The Special Hearing on “Safety and the Phased Elimination of Pepper Spray (‘Oleoresin Capsicum’) in LA County Juvenile Facilities” was successful in gathering community input on performance metrics, reform programming and policy recommendations. The range of panelists, respondents, and participants in public comment informed the discussion in a way that moved the process of reform forward and assisted in crafting the recommendations contained within this report. The PRIT acknowledges the input of all interested stakeholders and the confidence of the Board of Supervisors in charging us to convene this Hearing and forward recommendations on these important topics.

ⁱ Both reports can be found on the OIG website at <https://oig.lacounty.gov/> – See reports for specific data results, OIG findings, and recommendations.

ⁱⁱ The Special Hearing was convened at the Carson Community Center and attended by 104 people. Participants ranged from current and retired probation officers, formerly detained youth, representatives of community organizations dedicated to youth development and criminal justice transformation, deputies from Board offices, and others committed to ensuring humane treatment in juvenile justice facilities, rehabilitation and re-entry, and public safety. As requested by the Board, the OIG and Probation Dept provided updated data on the use of force in response to the OIG’s Feb 4th report on March 8, 2019. The PRIT Chair led consideration of the OIG’s findings in two separate panels, one focused on ‘Data and Use of Force in Juvenile Facilities’ and the other on ‘Mental Health and Trauma Informed Approaches in Juvenile Facilities.’ Panelists included representatives from the OIG, the Probation Dept., Dept of Mental Health, Office of the LA County Public Defender, AFSCME 685, SEIU 721 – Assn. of Probation Supervisors, Children’s Defense Fund-CA, Homeboy Industries, and PRIT technical experts from the Children’s Initiative and the National Institute for Criminal Justice Reform. A recording of the Special Hearing proceedings is available on the PRIT Facebook page at: <https://www.facebook.com/lacountyprit/videos/553222788521070/>

ⁱⁱⁱ Criminal justice research confirms that positive outcomes for probation populations are associated with positive relationships with probation staff. There were many people at the Special Hearing, including formerly detained youth, who emphasized that all probation staff should not be characterized by the actions of a few.

^{iv} CICA Staff Retention Toolkit http://cjca.net/wp-content/uploads/2019/01/18-6707_CICA_Staff_Ret_Toolkit.pdf

^v Consistent with the overall PRIT process, the Special Hearing demonstrated the great need for dialogue between Probation staff, youth formerly in detention, adults on probation, and community residents. The PRIT recognizes that there has been a significant public policy shift away from a punitive approach to a rehabilitative approach in criminal justice broadly, and in juvenile justice, in particular. However, the Special Hearing demonstrated that this vision is unevenly represented in the Department. A recording of the instances in the Special Hearing reflecting these challenges, along with other PRIT meetings where the need for engagement and culture change has been evident, is available at the PRIT Facebook page cited above.

^{vi} Interview with DMH staff.

^{vii} The PRIT appreciates this input from the head of the Probation Supervisors’ Union. The PRIT agrees that training is key, but feels trained professionals, not doctoral students, would be better suited in these roles and that child psychology, rather than forensic psychology, would be more germane as a training topic.

^{viii} The ‘RDA Report’ refers to the final recommendations submitted to the LA County Board of Supervisors by Research Development Associates (RDA) in 2018. The RDA report was commissioned to conduct a sweeping review of best practices and address the unique needs of LA County. The Board adopted RDA’s report and recommendations in a May 1, 2018 motion that also created the PRIT as a temporary body to integrate them into a plan for reform. The RDA report is available at: <http://file.lacounty.gov/SDSInter/bos/supdocs/121080.pdf>

^{ix} Testimony of Chief Sheila Mitchell, Panel on ‘Mental Health Needs and Trauma-Informed Approaches in LA County Juvenile Justice Facilities,’ PRIT Special Hearing, March 16, 2019.

^x Interview with DMH staff.

^{xi} The PRIT appointee from District 5 does not support this recommendation and offers the dissenting view that, “The Probation Department should indeed regularly collect, analyze, and share data. The new oversight commission should receive and review the data collected, not supplant the role of the Department. As an advisory body, it is not the POC’s role to direct the Department on which data to collect.”

^{xii} The PRIT appointee from District 5 does not support this recommendation and offers the dissenting view that, “While the POC should develop its own system for youth grievances, this third party grievance system should not replace an internal system within the Probation Department that is fair, effective, and includes protections against retaliation against youth.”

^{xiii} At the April 17th PRIT public meeting exploring existing needs and a potential role for the POC in the area of ‘Grievances and Complaints,’ these issues were explored extensively. See the video recording of the meeting at the PRIT Facebook page, cited above.

^{xiv} United States Department of Justice, Letter from Ralph F. Boyd, Jr. to Yvonne B. Burke dated April 9, 2003.

^{xv} United States Department of Justice, Letter from Thomas E. Perez to Phil Bryant dated March 20, 2012; Letter from Thomas E. Perez to Mitch Daniels dated January 29, 2010.

^{xvi} Specifically, for six (29%) of the 21 OC spray incidents reviewed, the canister weight indicated on the incident report did not match the weight indicated on the OC spray weight log. Probation responded that after the review, they issued a memo to staff specifying the procedures for recording information on the OC spray log. 'Report of the Los Angeles County Department of Auditor-Controller to the Los Angeles County Board of Supervisors,' December 6, 2016, page 2, available at:

http://file.lacounty.gov/SDSInter/bos/bc/1020330_2016-12-6ProbationDepartmentJuvenileCamps-ComplianceWithTheDepartmentofJusticeSettlementAgreementReview-JunethroughAugust2016.pdf.

^{xvii} <https://chronicleofsocialchange.org/news-2/6-l-a-probation-officers-criminally-charged-in-pepper-spray-case>

^{xviii} See Gregory Smith & Woodhall Stopford, 'Health Hazards of Pepper Spray,' 60 NORTH CAROLINA MED. J. 268 (1999); Council of Juvenile Corrections Administrators, 'Issue Brief: Pepper Spray in Juvenile Facilities' (2011); Texas Criminal Justice Coalition, 'Pepper spray in the Texas Youth Commission: Research review and policy recommendations.'

^{xix} The PRIT appointee from District 5 does not endorse the recommendations in Part Two of this report and offers the dissenting view that, "In this section of the report, the PRIT's task is to develop a phased plan for the elimination of pepper spray in the juvenile facilities. That is clearly an achievable task, although there are some questions and disagreement as to how much time that would take. However, the report does not sufficiently recognize the different types of scenarios where pepper spray is used; therefore, I do not support the plan, as recommended."

^{xx} Since only 3 camps currently have access to pepper spray, and 2 of those are within the Challenger facility that will be closing in 2019, the PRIT feels eliminating pepper spray from the last remaining camp is an important milestone for this phase.

^{xxi} Detention (PbS) <https://pbstandards.org/programs/detention>